



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------------|
| 10/791,084 | 03/02/2004 | Todd W. Steigerwald | 5867-00800 | 2937 |
| 35617 | 7590 | 09/25/2007 | | |
| DAFFER MCDANIEL LLP P.O. BOX 684908 AUSTIN, TX 78768 | | | EXAMINER NGUYEN, DONGHAI D | |
| | | | ART UNIT 3729 | PAPER NUMBER |
| | | | MAIL DATE 09/25/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

11

| | | | |
|---|--------------------------------------|---|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/791,084 | Applicant(s) STEIGERWALD ET AL. | |
| | Examiner Donghai D. Nguyen | Art Unit 3729 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 0.
- Claim(s) objected to: 0.
- Claim(s) rejected: 1-9 & 24-27
- Claim(s) withdrawn from consideration: 0.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


 MINH TRINH
 PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

A) Regarding 112 second rejection, Applicants argue "the presently claimed apparatus length is definite because it is defined in the claims with a reasonable degree of particularity and clarity" (See "Remarks", page 3, 3rd paragraph). The Examiner disagrees because the particular or range of transmitted frequency is unknown or is undetermined therefore the length of the apparatus is not known and one skill in the art can not make the apparatus without knowing the length/size of the apparatus. Thus, the metes and bounds of the claims are not known. Therefore the claims are indefinite

B) Regarding 102 and 103 rejections: Applicants argue, "Lily fails to anticipate (teaching, suggestion or motivate) a method for forming an apparatus in which a length of the apparatus is substantially equal to one-half of a signal transmission wavelength" (see "Remarks" page 4, 2nd paragraph and page 9, 1st paragraph). The Examiner disagrees because Lily discloses the apparatus having a length (see Figs. 2B and 10) and it length is substantially equal to one-half of a transmission wavelength of a particular antenna having a transmission wavelength double the length of the apparatus (see Col. 4, lines 45-47). Further, Applicant stated that "the exact wavelength and the exact apparatus length -- are not critical or essential to the practice of the invention." (see "Remarks" filed on 4/18/07, page 2, last three lines), and since Lily discloses method of for forming an apparatus by extracting a shape and folding the shape into a plurality of resonant circuit elements, the apparatus of Lily has a length that is substantially equal to one-half of a particular transmission wavelength.

For the reasons above the 112 second paragraph and art rejections are maintained.

DN

September 18, 2007